

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

ROBERT FIREBAUGH and
STELLA FIREBAUGH,

Plaintiffs,

vs.

3M COMPANY, AS SUCCESSOR BY
MERGER TO MINNESOTA MINING
& MANUFACTURING COMPANY
AND/OR ITS PREDECESSORS/
SUCCESSORS IN INTEREST &
MINE SAFETY APPLIANCES

Defendants.

Case No. 4:08-CV-01161 ERW

JURY TRIAL DEMANDED

AFFIDAVIT OF MICHAEL MARTIN

County of Harris §
 §
State of Texas §

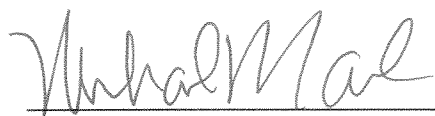
BEFORE ME, the undersigned official, on this date personally appeared MICHAEL MARTIN, who is personally known to me and, after being duly sworn by me, upon his oath did state as follows:

1. My name is Michael Martin. I am over 18 years of age and I have never been convicted of a felony or a crime of moral turpitude. I have personal knowledge of all matters stated in this affidavit, and all matters stated herein are true and correct.

2. I am an attorney with Maloney Martin, LLP, and my Texas State Bar No. is 1309440. I have been licensed to practice law in Texas since 1985. I am counsel for Plaintiffs, Robert and Stella Firebaugh, in this case.
3. Attached to the Motion for Partial Summary Judgment Against Mine Safety Appliances (“MSA”) Based Upon Negligence Per Se are the following exhibits:


- Exhibit 1:** Exhibit 1 is a true and correct copy of Firebaugh Job Titles, ISP_Firebaugh0002319.
- Exhibit 2:** Exhibit 2 is a true and correct copy of Robert Firebaugh’s Deposition.
- Exhibit 3:** Exhibit 3 is a true and correct copy of the U. S. Bureau of Mines, Department of Interior, 30 C.F.R. (1965)
- Exhibit 4:** Exhibit 4 is a true and correct copy of the U. S. Bureau of Mines, Department of Interior, 30 C.F.R. (1969)
- Exhibit 5:** Exhibit 5 is a true and correct copy of the U. S. Department of Interior, 30 C.F.R (1955)
- Exhibit 6:** Exhibit 6 is a true and correct copy of the Bureau of Mine Information Circular, *Approved Dust Respirators for Coal Mines* (May 1971) MSA/mm000849
- Exhibit 7:** Exhibit 7 is a true and correct copy of the Charles Joseph Siebel, Jr.’s Deposition
- Exhibit 8:** Exhibit 8 is a true and correct copy of the Letter from MSA to Bureau of Mines, August 25, 1970
- Exhibit 9:** Exhibit 9 is a true and correct copy of the Letter from Bureau of Mines to MSA, October 15, 1970
- Exhibit 10:** Exhibit 10 is a true and correct copy of MSA Dustfoe 66 photographs identified by a co-worker, Robert Savage.
- Exhibit 11:** Exhibit 11 is a true and correct cop of MSA memo from J.C. Miller to H.N. Cotabish, et al, MSA/mm001599

- Exhibit 12:** Exhibit 12 is a true and correct copy of MSA letter to NIOSH, March 2, 1973
- Exhibit 13:** Exhibit 13 is a true and correct copy of MSA Interoffice Correspondence from Monsted to Dewosky, December 17, 1976
- Exhibit 14:** Exhibit 14 is a true and correct copy of the Quarterly Progress Report for Respirator R & D Section (1972) from Los Alamos Scientific Laboratory Final Report and Respiratory Studies for the National Institute for Occupational Safety and Health, July 1, 1972 – June 3, 1973
- Exhibit 15:** Exhibit 15 is a true and correct copy of the NIOSH memo by Robert Schutz, Chief Engineering Branch, January 12, 1973, MSA/mm001414.
- Exhibit 16:** Exhibit 16 is a true and correct copy of the Department of Interior, Bureau of Mines, 30 C.F.R., part 11, subpart K (March 25, 1972)
- Exhibit 17:** Exhibit 17 is a true and correct copy of the letter from Dr. Peter Tuteur


Michael Martin

SUBSCRIBED AND SWORN TO BEFORE ME by Michael Martin on July ^{30th}____, 2010




Notary Public, State of Texas